

Michael K. Brown (SBN 104252)
Thomas J. Yoo (SBN 175118)
REED SMITH LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
Telephone: 213.457.8000
Facsimile: 213.457.8080
Email: mkbrown@reedsmith.com
tyoo@reedsmith.com

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Steven J. Boranian (SBN 174183)
Alison B. Riddell (SBN 246120)
REED SMITH LLP
Two Embarcadero Center, Suite 2000
San Francisco, CA 94111-3922
Telephone: 415.543.8700
Facsimile: 415.391.8269
Email: sboranian@reedsmith.com
ariddell@reedsmith.com

Attorneys for Defendants
Merck & Co., Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ESTATE OF SANDRA ELLIS, by and through a
Successor in Interest, THOMAS ELLIS, an
Individual,

Plaintiff,

VS.

MERCK & COMPANY, INC., a corporation;
McKESSON CORPORATION, a corporation;
AMERISOURCEBERGEN DRUG
CORPORATION, a corporation; DOES 1 to 100;
PHARMACEUTICAL DEFENDANT DOES 101
to 200; and DISTRIBUTOR DOES 201 to 300,
inclusive.

Defendants.

Case No. C 07-0074 JF

**STIPULATION AND [PROPOSED]
ORDER STAYING RULE 26(F) AND
INITIAL SCHEDULING CONFERENCES
PENDING RULINGS ON THE STAY AND
REMAND HEARINGS AND PENDING A
RULING BY THE JPML ON TRANSFER
TO MDL NO. 1657**

Honorable Jeremy Fogel

1 TO THE CLERK OF THE COURT OF THE UNITED STATES DISTRICT COURT FOR
2 THE NORTHERN DISTRICT OF CALIFORNIA, PLAINTIFF AND DEFENDANT, THROUGH
3 THEIR ATTORNEYS, FILE THIS STIPULATION AND PROPOSED ORDER.

4
5 This case, *Estate of Sandra Ellis v. Merck & Co., Inc., et al.* Case Number 07-0074 JF, was
6 filed in state court on September 26, 2006 and removed to this Court on January 5, 2007.

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8 No discovery has been conducted or scheduled.

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10 On January 12, 2007, Merck, pursuant to Rule 7.5(c) of the Rules of Procedure of the
11 Judicial Panel on Multidistrict Litigation ("R.P.J.P.M.L."), provided notice to the MDL Panel of the
12 pendency of this "tag-along" action and furnished the MDL Panel with a copy of the docket sheet
13 and complaint. Merck requested that the MDL Panel transfer this action to the multidistrict litigation
14 known as *In re Vioxx Products Liability Litigation*, MDL No. 1657, currently pending in the Eastern
15 District of Louisiana, District Judge Eldon Fallon presiding. On February 1, 2007, the JPML issued
16 a Conditional Transfer Order conditionally transferring this case to the Vioxx MDL proceeding in
17 the Eastern District of Louisiana. Plaintiff opposed the transfer of this case to the Vioxx MDL, and
18 the case is currently awaiting hearing to determine whether the case will be transferred to the Vioxx
19 MDL.

20
21 On January 26, 2007, Merck filed a motion to stay all proceedings pending transfer of this
22 case to the Vioxx MDL. On February 1, 2007, Plaintiff filed a motion to remand this case to Los
23 Angeles County Superior Court. The hearings for both of these motions are currently scheduled for
24 Friday, April 27, 2007 at 9:00 a.m. in Courtroom 3. An initial Case Management Conference is also
25 set for Friday, April 27, 2007 at 9:00 a.m. in Courtroom 3.

26
27 In light of both the upcoming hearings for Merck's motion to stay and Plaintiff's motion to
28 remand as well as the upcoming hearing concerning transfer of this case to the Vioxx MDL, the

1 parties respectfully request that further Joint Status Reports be postponed and that Discovery
2 Conferences be continued so as to allow this Court to Rule on the Stay and Remand Motions and to
3 allow the JPML to rule on transfer of this tag along action.

4
5 By signing this stipulation, the parties do not concede their positions on any pending motions
6 or other issues currently before this Court.
7
8

SO STIPULATED.

Dated: April 20, 2007

REED SMITH LLP

By: Alison B. Riddell

Alison B. Riddell
Attorney for Defendant
MERCK & CO., INC.

Dated: April 20, 2007

GREENBROLLET & WHEELER LLP

By: Bruce C. Fishelman

Bruce C. Fishelman
Attorney for Plaintiff
Thomas Ellis, representing the Estate of Sandra
Ellis

1 **[PROPOSED] ORDER**
2
3

IT IS HEREBY ORDERED the above terms of this Stipulation are approved by this
Court.

Dated: 4/23/07

Honorable Jeremy Fogel
United States District Judge